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Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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File Number 284270

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Response required by: May 6, 2004.

LETTER OF PERMISSION PROCEDURE GRAVEL MINING ACTIVITIES WITHIN HUMBOLDT COUNTY

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INTRODUCTION: The U.S. Army Corps of Engineers (Corps) is proposing a new gravel extraction Letter of Permission procedure (LOP 2004-1) for Humboldt County. The current proposal responds to concerns raised with an earlier proposed procedure (LOP 2003-1). LOP 2003-1 received a draft jeopardy opinion from National Marine Fisheries Service (NOAA Fisheries). Extensive coordination with NOAA Fisheries, the U.S. Fish and Wildlife Service (USFWS), the County of Humboldt Extraction Review Team (CHERT), and the Humboldt County gravel operators resulted in this new proposal.

The purpose of the LOP 2004-1 procedure is to streamline authorizations pursuant to Section 404 of the Clean Water Act (CWA) 33 U.S.C. 1344 and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) for excavation and related work associated with gravel mining. The LOP would only be used for extraction proposals that do not pose significant adverse individual or cumulative impacts. The LOP procedure also provides a consistent review of projects, descriptions, drawings, and analyses, which facilitate better evaluation of cumulative effects. LOP 2004-1 would expire on December 31, 2008.

PROJECT SUMMARY: The proposed procedure concerns gravel extraction on the unvegetated gravel bars within the streams and rivers of Humboldt County. As further described within the attached

procedure, gravel may be extracted by excavation of "horseshoe pits," alcoves, trenches and "wetland pits," or by skimming the surface of the gravel bar. This proposal is for the extraction seasons for the years 2004-2008, inclusively.

BACKGROUND: An LOP procedure, LOP 96-1, was first authorized in August of 1996 and extraction operations were authorized in that month while most operations were continuing under a grandfather clause. The first full year of gravel extraction under LOP 96-1 occurred in 1997. The procedure would have expired on August 19, 2001, but was extended from June 29, 2001 to August 31, 2001. Development of the LOP 2002-1 to succeed LOP96-1 began in October 2001. Due to the inability to reach consensus with the other resource agencies on LOP 2002-1, LOP 96-1 was extended to December 31, 2002. A second iteration, LOP 2003-1, was announced on November 26, 2002, but also was deferred. A modified version, LOP 96-1C was authorized in August 2003 and was valid until December 31, 2003. The current version, LOP 2004-1, is the product of extensive coordination during the past three years with the agencies and the regulated industry.

ENDANGERED SPECIES: Gravel extraction in Humboldt County could possibly adversely impact western snowy plovers as well as coho, Chinook, and steelhead, all Federally-listed threatened species. Concurrent with the issuance of this public notice,

the Corps will request the USFWS and the NOAA Fisheries to provide a biological opinion and incidental take statement for this LOP. A copy of each Incidental Take Statement will be attached as separate appendices to the LOP procedure and will be mandatory conditions of the LOP.

PUBLIC REVIEW: Any person may make a comment on the proposed LOP. For copies of the LOP 2004-1, contact Mr. Kelley Reid at the same addresses or phone number. Written comments should be submitted the Corps of Engineers, Attn: Kelley Reid, PO Box 4863, Eureka, California 95502 or e-mail: Kelley.Reid@spd02.usace.army.mil).

LETTER OF PERMISSION PROCEDURE (LOP 2004-1) FOR GRAVEL MINING AND EXCAVATION ACTIVITIES WITHIN

HUMBOLDT COUNTY

The purpose of the Letter of Permission procedure (LOP 2004-1) is to streamline Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899 authorizations for gravel mining and extraction activities in Humboldt County that do not pose significant adverse individual or cumulative impacts.

The letters of permission (LOP's) to be issued under this procedure will contain limitations intended to protect the environment and natural and cultural resources. In cases where the District Engineer (DE) considers it necessary, applications will be required for individual permits.

SCOPE OF WORK:

Work authorized by LOP or LOP modification letter under this procedure is limited to discharges of dredged or fill material associated with gravel mining activities in waters of the United States, including navigable waters of the United States, within Humboldt County, California. Activities that may be authorized by LOP under this procedure include, but are not limited to, sand and gravel mining and work associated with these activities, such as temporary stock piling of gravel in a dry section of the stream and construction of temporary coffer dams and road crossings. Impacts to waters of the United States, including wetlands, shall be avoided or minimized through the use of practicable alternatives. Reasonable compensation for unavoidable adverse impacts to waters of the United States will be required. Work that would have unmitigatable adverse impacts on the aquatic environment or would cause a substantial reduction in the extent of waters of the United States will not be authorized by LOP. The activities authorized under LOP 2004-1 shall be part of a single and complete project.

EVALUATION PROCEDURES:

Class A gravel operations at the locations described in Appendix G are eligible for authorization under the LOP 2004-1. The Corps has no record of active Class B gravel sites at this time. Because there are fewer Class B operations, they have less cumulative effects and are not required to have an extensive record of monitoring photos and cross-sections. Prospective applicants should apply for a permit early enough that the Corps can request and obtain a tiering letter from the National Marine Fisheries Service and the U.S. Fish and Wildlife Service, if necessary, before the gravel season begins. All applicants shall submit complete applications, after consulting with the CHERT (County of Humboldt Extraction Review Team), to the Corps and NOAA Fisheries for review to determine whether the excavation activity qualifies under the LOP 2004-1. CHERT will help identify areas of concern and locations for cross-section monitoring. If the activity qualifies under the LOP 2004-1, it will be granted an LOP for the duration of this procedure, pending annual confirmations by LOP modification letters. Each

permittee must also submit yearly monitoring data regarding extraction amounts, cross-sectional information, biological monitoring, and aerial photos.

Each spring, the Corps shall invite the U.S. Environmental Protection Agency (EPA), NOAA Fisheries, USFWS, California Coastal Commission (CCC), California Department of Fish and Game (CDFG), and the California Regional Water Quality Control Board (RWQCB) to an interagency evaluation and coordination meeting to review new applications and yearly compliance data of previously authorized activities.

Should an agency or member of the public object to continuing an activity under an existing authorization, based on evidence of non-compliance or evidence of more than minimal impacts, the Corps may suspend and/or revoke the existing authorization and require an individual permit unless the permittee can demonstrate compliance with the LOP, or reduce the future impacts of its operations to minimal impacts, and mitigate for past non-compliance.

The general time line for the LOP 2004-1 is stated below. Biological monitoring dates are listed in Appendix D.

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| FEB 1 | New Class A and all Class B projects (See Application Procedures for definition of Class A and Class B projects) must submit notification to the Corps and NOAA Fisheries with environmental documentation. |
| | CHERT annual report that evaluates the past extractions may in part rely on the monitoring reports. |
| SPRING | Gravel Week: the regulating agencies meet to review permit applications and compliance. No specific date is established for the annual meeting. |
| | Aerial orthographic photos to be taken for Class A projects. |
| MAY 15 | Gravel extraction plans along with CHERT recommendations shall be submitted to the Corps and NOAA Fisheries, unless late seasonal rains prevent data gathering. In that case, the Corps will establish new deadlines. |
| | Annual extraction plans for continuing Class B permits are due to the Corps and NOAA Fisheries. |
| JUN 1 | Earliest extraction. |
| JUN 30 | Earliest construction of temporary channel crossings. |
| SEP 15 | All channel crossings removed from Mad River. |

SEP 20- OCT 7	Post extraction orthographic aerial photos to be taken.
OCT 1	Gravel stockpiled on river bars must be removed on a daily basis after October 1. Each day, thereafter, extraction sites shall be groomed and graded to drain freely at the end of each working day.
OCT 15	All channel crossings must be removed. Regrading must be completed for all gravel bars. All gravel extraction ceases on river bars, unless an approved river flow monitoring plan is enacted and a time extension granted.
NOV 1- FEB 28	Plant mitigation areas. Post-extraction aerial photos are delivered to the Corps, CHERT, and NOAA Fisheries.
DEC 1	Post-extraction cross section data and biological monitoring data submitted to Corps, NOAA Fisheries and CHERT except biological monitoring data gathered in November and December.
DEC 31	Mitigation monitoring reports due to Corps, NOAA Fisheries, and CHERT. Biological monitoring data gathered in November and/or December submitted to Corps and CHERT.

GRAVEL EXTRACTION LIMITATIONS:

Projects authorized under this procedure are subject to the following limitations. The limitations on gravel extraction for this procedure have been expanded relative to those in the original LOP 96-1 to reflect new information and concerns. They also require closer coordination between the Corps, NOAA Fisheries, and CHERT in project review and approval. The Corps has the right to add or modify limitations as appropriate. Modifications to excavation procedures may be made to increase fisheries and wildlife habitat with Corps approval.

1. All applicants shall use the CHERT process for annual review and recommendations.

CHERT is a critical part of this LOP procedure. In addition to making recommendations to the operators, CHERT also provides the Corps and NOAA Fisheries with a summary of its rationale supporting the preferred alternative. Gravel extraction proposals shall include a summary of the rationale supporting how the CHERT recommendation does not increase channel braiding and promotes channel confinement, and does not increase the risk of adult salmonid stranding or decrease riffle and redd stability.

2. Minimum head of bar buffer

The upstream end of the bar (head of bar) shall not be mined or otherwise altered by the proposed action. The minimum head of the bar shall be defined as that portion of the bar that

extends from at least the upper third of the bar to the upstream end of the bar that is exposed at summer low flow. Therefore, the upstream one-third portion of the bar as exposed at summer low flow is provided as the minimum head of bar buffer. The intent of the head of bar buffer is to provide protection of the natural stream flow steering effect provided by an undisturbed bar.

Some alternative extraction techniques, such as longer and much narrower skims adjacent to the low flow channel, have specific geomorphic objectives that may require extraction on a portion of the head of bar buffer. Variances to the minimum head of bar buffer may be considered on a case-by-case basis, if the proposed alternative provides equal or greater protection. NOAA Fisheries will inform the Corps and CHERT if a proposed variance does not comply with the terms of the Incidental Take Statement. The specific nature of the proposed variance must be described, along with sufficient biological, hydrological, and sediment transport rationale to support the recommended alternative. For example, any modification in the default head-of-bar buffer dimensions should, at a minimum, provide for protection of the adjacent cross-over riffle, by limiting extraction to the area downstream of the riffle. In addition, NOAA Fisheries may impose special requirements, including additional monitoring on approved variances to the minimum head of bar buffer, to insure there is no take beyond what is allowed in the Incidental Take Statement of the biological opinion.

3. The minimum skim floor elevation shall be at least the water surface elevation of the 35% exceedence flow.

The minimum skim floor elevation shall remain above the water surface elevation of the 35% exceedence flow for each site, on an annual basis. Instructions for determining, marking and reporting the water surface elevation of the 35% exceedence flow are available from NOAA Fisheries. See the contact information in the Submittals section beginning on page 12.

Additionally, the water surface elevation of the 35% exceedence flow shall be marked on the gravel bar and indicated on the cross section survey data.

To aid compliance with these setbacks, the area of extraction shall be clearly flagged, painted, or staked. Excavated material shall be skimmed off the surface. Other methods of excavation, such as trenching, may be approved by the Corps, however, these alternative designs will be discussed with other resource agencies (e.g., NOAA Fisheries, CDFG) and CHERT prior to submitting the extraction plans in the spring.

4. Temporary channel crossings.

Design and construction: The location, construction and removal of all temporary channel crossings must be reviewed by CHERT for conformance with these guidelines and described in the CHERT recommendation. Crossings will be designed and installed to minimize turbidity and geomorphic impacts from bridge construction, bridge use and bridge removal. Factors to consider include habitat quality, channel width, length of available bridges, required bridge width, water depth and velocity, amount of fine sediment in the native gravel and the availability

of washed rock.

- Main channels must be spanned to the maximum length practicable using either a flatcar or bridge span. Appropriate culverts may be approved for use in secondary channels on a case-by-case basis.
- Heavy equipment passes across the wetted channel during temporary channel crossing construction and removal will be kept to an absolute minimum and described in the CHERT recommendation. Heavy equipment passes shall be limited to two passes per bridge construction and two passes per removal.
- Native gravel can be used for bridge approaches and abutments if the bridge will completely span the wetted channel, and the abutment materials are removed and regraded onto approved sites upon bridge removal.
- Use of brow logs, concrete blocks, concrete K-rails or other suitable materials shall be used in temporary abutments to minimize the amount of sediment required for abutments or approach ramps.
- If encroachment into the low flow channel is necessary to span the wetted channel, then approach ramps shall be constructed using techniques that will reduce the input of fine sediment into the channel. These techniques could include a base of washed rock or cobbles on the access side of the stream. The base shall extend from the bed of the stream to six inches above the water surface at construction time. This base can be topped with native gravel. Alternatively, if washed rock is not readily available, native gravel used in wetted approaches and abutments may be lined with filter fabric and surrounded with K-rails. Other methods that would provide equal or superior protection from turbidity impacts may be suggested by the operator and presented for review and recommendation by CHERT and NOAA Fisheries. Other methods may be approved if they meet the objective of minimizing sediment delivery to the low-flow channel.
- Upon bridge removal, the original channel configuration shall be restored to the fullest extent feasible.

Timing: Temporary crossings shall be placed after June 15 only. All crossings and associated fills must be removed after excavation ceases, but before September 15 for the Mad River and before October 15 for all other rivers. The Corps shall provide NOAA Fisheries a copy of any request for a time extension for bridge construction or removal for its review before the time extension may be authorized by the Corps, due to the sensitivity of working directly within the wetted channel. It is not expected that extensions will be granted if California Coastal Chinook (CC Chinook) salmon adults have entered the extraction reach.

Location: Bridge locations shall avoid known spawning areas. The middle of riffles may provide the best location for temporary crossings since the bridge may be able to span the entire wetted channel. Where bridges are not able to span the entire wetted channel, the crossing

location shall be determined on a site-specific basis. The proposed location, and rationale used to determine how the crossing location minimizes effects to salmonids, shall be included in the CHERT recommendation. Haul roads shall follow the shortest route possible while avoiding sensitive areas such as riparian vegetation. If excessive compaction is identified, the roads shall be scarified after extraction is complete.

5. Storage and stockpiles

Temporary storage of excavated material may occur on the gravel bar, but must be removed by October 1. Temporary stockpiling of gravel on bars that are on rivers listed under the Wild and Scenic Rivers Act (see Appendix B) may occur during the active work week, Monday through Saturday, but must be removed on or before Saturday of each weekend.

In order to minimize the turbidity associated with excavating wet sediment, all wet excavated sediment must be stockpiled on the gravel bar away from the low flow channel and allowed to drain prior to hauling across the temporary channel crossing.

6. Vegetation and wetlands

All riparian woody vegetation and wetlands must be avoided to the maximum extent possible. Any riparian vegetation or wetland that is to be disturbed must be clearly identified by mapping.

Woody vegetation that is part of a contiguous 1/8 acre complex, or is at least 2 inches diameter breast height (dbh), that is disturbed must be mitigated. Impacts to other woody vegetation must be described and submitted to the Corps and CHERT with the gravel extraction plans. These impacts may require mitigation at the discretion of the Corps. Impacted areas which must be mapped consist of riparian vegetation which have driplines within 25 feet of excavation activities (excavation, stockpiling, parking, etc.) or wetlands which are filled, excavated or drained. Mitigation for impacts to woody vegetation shall not be required for pre-existing haul roads, stockpile areas and facilities (see discussion under Required Mitigation).

7. Structure setbacks

Gravel removal must remain a minimum distance of 500 feet from any structure (i.e. bridge, water intake, dam, etc.) in the river. For bridges, the minimum setback distance is the length of the bridge or 500 feet, whichever is greater. Gravel removal may encroach within this setback if written approval is given by owners of these structures and approved by the Corps. A copy of written approvals shall be provided to the Corps.

8. Regrading

The project area must be regraded, if necessary, before the water levels rise in the rainy season. Grading must be completed by October 15 each year. Regrading includes filling in depressions, grading the construction/excavation site according to the approved configuration, leaving the area in a free-draining configuration (no depressions and sloping toward the low flow channel),

and removing all temporary fills from the project area. Regrading may not be necessary if extraction operations leave the extraction area free of depressions and temporary fills and meet the approved mining configuration.

9. Timing of extraction

Unless the operator's LOP is specifically modified, gravel extraction shall cease by October 15 each year. Regrading, if necessary, shall be completed prior to October 15 each year. Requests for a time extension will be reviewed on a case-by-case basis. The applicant, however, must have regraded the site before an extension can be authorized. Requests for an extension must include an approved CDFG Stream Alteration Agreement (SAA) extension or exemption. The Corps will coordinate with CHERT and NOAA Fisheries before a decision is made on the time extension. Also note water crossing timing restrictions described above.

10. Wild and Scenic Rivers

Sections of the Eel, Klamath, Trinity, and Van Duzen rivers in Humboldt County are designated recreational and scenic. For a list of these recreational and scenic river sections see Appendix B.

11. Endangered Species

All applicants shall submit, as part of the application, a written assessment by a qualified biologist describing the potential effects of the project on federally threatened, endangered, or proposed species under the Endangered Species Act. This assessment shall include, at a minimum, an account of habitat suitability within a 0.25 mile radius of the project site, and pertinent sighting information from available sources including, but not limited to, wildlife sighting databases maintained by CDFG and USFWS.

There is a potential for gravel operations on the main stem Eel River, downstream of the confluence with the South Fork Eel River, to adversely affect the western snowy plover. Until formal consultation with USFWS is finalized, Appendix E contains draft conditions necessary to assure the activities are not likely to adversely affect the western snowy plover. LOP 2004-1 shall not be implemented until consultation with USFWS and NOAA Fisheries is complete. Upon completion of the consultation with USFWS, Appendix E will include the terms and conditions of the USFWS Biological Opinion for this procedure and Appendix E shall be a requirement of all gravel extraction activities, including pre-extraction surveys, on the Lower Eel River, downstream from the confluence with the Van Duzen River.

Similarly, an appendix will be added with the terms and conditions from the NOAA Fisheries Biological Opinion. Those terms and conditions shall also be location-specific requirements of gravel extraction activities.

12. Habitat Enhancement and Protection

Occasionally, gravel extraction operators propose projects that entail gravel extraction with a focus on habitat enhancement. NOAA Fisheries shall advise the Corps on any requests for potential fisheries enhancement projects. Modifications to excavation procedures may be made to increase fisheries and wildlife habitat with Corps approval.

Large woody debris (LWD) in the wetted channel and on floodplains and terraces is an important component of aquatic and riparian habitat. However, it is common practice for LWD to be gathered by local residents for firewood and other uses. To reduce the adverse effects of this longstanding practice, educational signing regarding the importance of LWD for salmonids shall be placed at access roads owned, controlled, or utilized by the gravel operators. In addition, in order to protect LWD deposited on mined gravel bars, all access roads owned or controlled by gravel operators shall be gated and locked to reduce access. Operators should consult with NOAA Fisheries for suggestions on the wording and design of this signing.

13. Special Conditions.

Additional special conditions may be added to individual LOP's on a case-by-case basis to minimize adverse impacts to the aquatic ecosystem and to the scenic and recreational values of the rivers listed in the Wild and Scenic Rivers Act. Modifications to excavation procedures may be made to increase fisheries and wildlife habitat with Corps approval.

In addition to limitations discussed above, projects authorized by LOP are subject to the general conditions contained in Appendix A and any special conditions that may be added.

AUTHORIZATION FROM OTHER AGENCIES:

The permittee is responsible for obtaining any and all additional federal, state, tribal, or local permits that may be required, which include, but are not limited to:

1. STATE WATER QUALITY CERTIFICATION: California's Regional Water Quality Control Board's (RWQCB) certification is required for work within the state of California, except for work within the boundaries of a Federally recognized Indian Reservation (See #5 below). The State has adopted water quality standards including implementation measures that avoid and mitigate adverse impacts and prohibit discharges that pollute waters of the State. The Corps has requested and the RWQCB is working to provide a general authorization for gravel extraction under this procedure. A general authorization would cover all the gravel operators extracting gravel pursuant to the LOP 2004-1. However, the State would retain full authority to enforce its standards. Until a general authorization is provided for the LOP 2004-1, operators must obtain individual water quality certifications in order for their individual LOP(s) to be valid.

The state of California has adopted general National Pollution Discharge Elimination System (NPDES) permits to cover those mining activities which must obtain permits to discharge stormwater associated with industrial activity - as defined in 40 CFR Section 122.26(b)(14). For

information about NPDES requirements, applicants can contact the RWQCB, North Coast Region, at 5550 Skylane Boulevard, Suite A, Santa Rosa, CA 95403.

2. When streambed materials such as sand and gravel are to be disturbed or removed from waters in the state of California, the permittee must obtain a Stream Alteration Agreement from the CDFG, except when working within the boundaries of a Federally recognized Indian Reservation (See #5 below). The permittee can contact the CDFG at California Department of Fish and Game, Region 1, 601 Locust Street, Redding, California 96001.

3. All gravel and mining operations must either be permitted by or exempted by the California Department of Conservation Division of Mines and Geology's Lead Agency (Lead Agency), except for work within the boundaries of a Federally recognized Indian Reservation (See #5 below). The Lead Agency for Humboldt County is: Humboldt County Department of Community Services, 3015 H Street, Eureka, California 95501. Failure to provide proof of a conditional use permit, vested rights or exemption letter will preclude use of the LOP 2004-1.

4. Sand and gravel extraction and other development activities located within the Coastal Zone may require a Coastal Development Permit and a Coastal Zone Management Act Consistency Concurrence from either the California Coastal Commission located at 45 Fremont Street, Suite 2000, San Francisco, California 94105-2219, or the County of Humboldt Planning and Building Department located at 3015 H Street, Eureka, California 95501.

5. Activities within the boundaries of a Federally recognized Indian Reservation need to obtain Water Quality Certification from the EPA or from the Indian Reservation (if it is authorized by the EPA to grant water quality certification). In addition, there may be other permits required by the Indian Reservation that are not listed here. The applicant shall contact the appropriate Indian Reservation for more information.

6. Activities that occur below the mean high water mark on tidal waterways and below the ordinary high water mark on non-tidal waterways may have to obtain easements from or pay fees to the California State Lands Commission (SLC). The SLC can be contacted at 100 Howe Avenue, Suite 100 South, Sacramento, California 95825-8202, or reached at (916) 574-1800.

7. U.S. Coast Guard (USCG) is the Federal agency with permitting authority and regulatory jurisdiction for bridges, pursuant to the General Bridge Act. The USCG will provide the applicant with a USCG jurisdictional determination and directions for additional bridge permitting issues, if any. The USCG can be contacted at Commander, Eleventh Coast Guard District, Bridge Section, Bldg. 50-3, Coast Guard Island, Alameda, CA, 94501-5100, or by telephone at (510) 437-3514.

APPLICATION PROCEDURES:

Applications shall be divided into two categories based on quantity of material removed from the river basins. The two categories are: Class A projects: Projects which remove 5,000 cubic yards

of material per year or more; and Class B projects: Projects which remove less than 5,000 cubic yards per year of material. All new projects (See #7 under General Restrictions on Page 3) must submit a notice of intent to mine gravel to the Corps, Eureka Field Office, by February 1 of that year.

Before mining, a pre-extraction report (mining proposal) must be submitted that contains information described below. Following completion of extraction, a post-extraction report must be submitted (also described below). Copies of all pre- and post-extraction information, including cross sections, aerial photos, and other information shall be provided to the Corps, NOAA Fisheries, and CHERT at about the same time. Once the pre-extraction report has been submitted, a site review will be scheduled for all Class A operations. A mutually agreeable date shall be scheduled between CHERT, the Corps and NOAA Fisheries for site reviews, or a five working day notice of when the site review is scheduled to occur shall be provided to NOAA Fisheries.

At the discretion of the operator, a preliminary site review may be requested to discuss preferred mining alternatives before a pre-extraction report is prepared. This can often save costs of unnecessary surveying and plan preparation, as well as time, by narrowing the scope of mining design alternatives to one that is likely to meet the restrictions set forth herein. Should operators desire a preliminary review, a mutually agreeable date shall be scheduled between CHERT, the Corps and NOAA Fisheries for site reviews, or a five working day notice of when the site review is scheduled to occur shall be provided to NOAA Fisheries.

In all cases an application for authorization of work under LOP 2004-1 must include a written description of the project, proposed work schedule, the address and telephone number of a point of contact who can be reached during working hours, an 8.5 by 11 inch vicinity map, and an 8.5 by 11 inch site or location map showing all the boundaries of all work to be done (maps and figures can also be on 11 by 17 inch paper). The information may be submitted on an Application for Department of the Army Permit form (ENG Form 4345) or in any other form which will clearly supply the information in a concise manner. In general, projects that remove more than 250,000 cubic yards per year will not be considered eligible for authorization under this procedure. Projects will also be considered in relation to other extraction operations.

● **Class A Projects:** Projects that remove 5,000 cubic yards or more per year of material from the river basin. Project submittal must include a description of the project and at least the following information, unless modified by the Corps, on a yearly basis:

I. A pre-extraction report shall be submitted to the Corps, CHERT, and NOAA Fisheries at least two weeks prior to excavation. Pre-extraction reports shall include:

A. Cross-section Surveys: Monitoring and Extraction cross-section surveys shall be done according to Appendix C (attached), unless modified by CHERT and approved by the Corps. Each year spring surveys shall be submitted to CHERT for review. Applicants shall submit gravel extraction plans meeting CHERT recommendations to

the Corps for approval prior to commencing gravel extraction operations;

B. A Stream Alteration Agreement (SAA) or any extension signed by the CDFG, or a Riparian Protection and Surface Mining Permit signed by a Federally recognized Indian Reservation. Permits may be obtained concurrently with the Corps permit;

C. A pre-extraction vertical aerial photo of the location. Photos shall be taken the spring of each year and shall include the entire project reach (extraction zone reach of the project site and immediate upstream and downstream reaches within one half length of the extraction zone reach of the project, as measured along the thalweg (the bottom of the low-flow channel). Pre-extraction photos must be vertical photos at a scale of 1:6000 and shall diagram proposed extraction activities as described in Appendix C;

D. A mitigation report containing the mapped areas that are impacted (riparian vegetation and wetlands) and the mitigation proposed to minimize these impacts;

E. For new projects, the applicant must submit to the Corps and the consulting regulatory agencies participating in the spring meetings, by February 1 of the initial gravel mining year, copies of the environmental documentation required by the Lead Agency when requesting a conditional use permit, vested right or exemption. The Corps may also require additional information.

II. A post-extraction report shall be submitted to the Corps, CHERT, and NOAA Fisheries by December 1 of each year. Post-extraction reports shall include:

A. A post-extraction survey, which shall be conducted following cessation of extraction and before alteration of the extraction area by flow following fall rains, preferably before October 15. Post-extraction reports shall include the amount and dimensions of material excavated from each area mined. See Appendix C for post-extraction requirements;

B. Vertical aerial photo coverage of the project reach. Photo coverage shall be taken in the low-flow periods and be at a scale no larger than 1:12000. Photos shall be taken from a fixed or vertical oriented (i.e. belly-mounted) camera. Stereoscopic photo coverage shall be taken in late September or early (first week) October;

C. A longitudinal profile view of the thalweg for the active channel line along the project reach based on the monitoring cross-sections and additional thalweg survey points taken at dominant riffle crests and pool bottoms;

D. The results of required biological monitoring information, as described in Appendix D (attached), are due Jan 1 of the following year.

● **Class B Projects:** Projects that remove less than 5,000 cubic yards per year of material from the river basin. Class B projects must be physically separated from other gravel operations to be considered separate projects. Projects cannot be located on the same gravel bar, or on the same parcel number as other projects, and be considered as separate projects. The Corps reserves the right to elevate a Class B project to Class A status.

Project submittal must also include a description of the project and at least the following information, unless modified by the Corps, on a yearly basis:

- I. A pre-extraction report, submitted by May 15 of the gravel year, that includes:
 - A. A site map showing project and extraction area boundaries and cross sections on 8.5 by 11 inch or 11 by 17 inch paper. Drawings shall be labeled with approximate scale and quantities of material removed from the site. Plan views must also map any known salmonid spawning sites;
 - B. A minimum of one monitoring cross-section and five extraction cross-sections per extraction site (See Appendix C for cross-section details);
 - C. A copy of the SAA signed by the CDFG, or a Riparian Protection and Surface Mining Permit signed by the Federally recognized Indian Reservation. Permits may be obtained concurrently with the Corps permit;
 - D. Aerial photos of the mining area before excavation. The point(s) from which the photos are taken shall be shown on a site map along with the direction of the photos. These are identical to the aerial photos used for stereoscopic viewing without the 60% overlap.
 - E. Mapping and description, including size, species and number, of any riparian vegetation that will be removed, cut, or within 25 feet of excavation, stockpiling or trafficking of gravel and any wetland that will be impacted. Also included in submittal shall be a mitigation plan to minimize any unavoidable impacts.
- II. A post project report, due by December 1 of extraction year, which shall include:
 - A. Post-extraction data for extraction and monitoring cross-sections according to Appendix C.
 - B. Aerial photos of the mining area after excavation. Photos shall be taken from the same location as pre-project photos and be of similar coverage, quality and scale.

REQUIRED MITIGATION:

Each permittee shall mitigate impacts to wetlands and riparian zones in the following manner:

avoidance of the impact, minimization of the impact, rectifying the impact, reducing or eliminating the impact over time, and finally compensating for impacts. For all unavoidable impacts, a mitigation plan shall be submitted with applications for all projects that will adversely affect wetlands and riparian vegetation. Mitigation must consider the size and age of the vegetation removed or adversely impacted. All vegetative mitigation must be planted between November 1 and February 28 of the year following excavation and must have an approved survival rate over three growing seasons. Failure to obtain a three-year survival rate shall require replanting. Annual reports depicting the survival of vegetation shall be due by December 31 each year for three growing seasons after planting year.

SITE VISITS:

Site visits will be conducted before and after gravel extraction operations at all Class A operations. Additional site visits can be made upon request by the operator or when otherwise deemed necessary by the Corps, NOAA Fisheries, CHERT, or other participating agencies. Pre-extraction visits will be done as part of the review and approval process. Post-extraction visits will be as soon as possible following completion of operations **and** prior to site inundation by rising river stages in the fall. To help ensure this occurs in a timely manner, project owners must notify the Corps, NOAA Fisheries, and CHERT by email, phone, or fax within two business days of project completion.

SUBMITTALS:

Project submittals (pre-extraction and post-extraction) should be mailed to the following agency representatives (note that you may also be required to mail submittals to other agencies, such as Humboldt County, CDFG, Calif. CCC, SLC, USFWS, etc.):

U.S. Army Corps of Engineers
Regulatory Branch, Eureka Field Office
P.O. Box 4863, Eureka, California 95502
Attention: Mr. Kelley Reid

National Marine Fisheries Service
Arcata Field Office
1655 Heindon Road
Arcata, CA 95521
Attention: Ms. Irma Lagomarsino

Dr. Douglas Jager, CHERT
349 Stagecoach Road
Trinidad, CA 95570

If you have any questions you can telephone the Corps' Eureka Office at (707) 443-0855 or send an email to: Kelley.Reid@spd02.usace.army.mil.

Work may not proceed until the District Engineer has issued an LOP authorization letter. For projects which have obtained the LOP, the activity may not begin each year until a confirmation letter (Letter of Modification, or MOD) has been issued by the Corps. The Corps will attach the NOAA Fisheries Incidental Take Statement (ITS) to all LOPs issued under this procedure to aid in compliance with terms and conditions by the applicants.

It is the applicant's responsibility to insure that the authorized project meets the terms and conditions set forth herein; failure to abide by them will constitute a violation of the Clean Water Act and/or the Rivers and Harbors Act of 1899.

The Corps is responsible for determining compliance with the LOP 2004-1. The Corps may take actions to rectify projects that are not in compliance. These actions may include, but are not limited to, the following:

- A. Permit revocation.
- B. Permit suspension.
- C. Project and habitat site restoration.
- D. Reduction of authorized gravel extraction amounts per year.

No authorization will be granted under a LOP for any excavation or grading that is for the primary purpose of river engineering, channel or river capture, channel realignment or for a project that is likely to result in the above, unless approved by the Corps. Projects outside the scope of this LOP 2004-1 will be considered for authorization by individual permit.

This permit shall become effective on the date of the signature of the District Engineer, or his authorized representative, and will automatically expire on **December 31, 2008**, unless the permit is modified, revoked, or extended before that date. Activities authorized under this permit that have commenced (i.e. are under operation), or are under contract to commence in reliance on this permit, will remain authorized provided the activity is completed within twelve months of the expiration, modification, or revocation of the permit, unless discretionary authority has been exercised by the Corps on a case-by-case basis to modify, suspend, or revoke the authorization. Prior to expiration, a public notice seeking public comment will be reissued within five years from the date of signature of this procedure. The public notice will supply a summary of past actions and may also seek reauthorization of this LOP procedure.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:
FOR THE DISTRICT ENGINEER:

Date

— DRAFT —

Michael McCormick
Lieutenant Colonel, Corps of Engineers
District Engineer

APPENDIX A

CONDITIONS OF LETTERS OF PERMISSION ISSUED UNDER "Gravel Mining and Excavation Activities in Humboldt County" LOP 2004-1

GENERAL CONDITIONS:

1. The Department of the Army has relied in part on the information provided by the permittee. If, subsequent to issuing this permit, such information proves to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part.
2. Permittees whose projects are authorized by this procedure shall comply with all terms and conditions herein. Failure to abide by such conditions invalidates the authorization and may result in a violation of the law, requiring restoration of the site or other remedial action.
3. An LOP should not be considered as an approval of the design features of any authorized project or an implication that such is considered adequate for the purpose intended. A Department of the Army permit merely expresses the consent of the Federal Government to the proposed work insofar as public rights are concerned. This permit does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state or local laws or regulations. Nor does it relieve the permittee from the requirement to obtain a local permit from the jurisdiction within which the project is located and to address all non-encroachment restrictions within a floodway of such local jurisdiction as identified by the Federal Emergency Management Agency.
4. This LOP procedure may be modified or suspended in whole or in part if it is determined that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. The authorization for individual projects may also be summarily modified, suspended, or revoked, in whole or in part, upon a finding by the District Engineer that immediate suspension of the project would be in the public interest.
5. Any modification, suspension or revocation of the District Engineer's authorization shall not be the basis for any claim for damages against the United States.
6. This permit does not authorize the interference with any existing or proposed Federal project, and the permittee shall not be entitled to compensation for damage or injury to the structures or activities authorized herein which may result from existing or future operations undertaken by the United States in the public interest.
7. No attempt shall be made by the permittee to prevent the full and free public use of all navigable waters of the United States, at or adjacent to the project authorized herein.

8. There shall be no unreasonable interference with navigation by the existence or use of the permanent and temporary structures authorized herein.
9. The permittee shall make every reasonable effort to conduct the activities authorized herein in a manner that will minimize any adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning areas, and riparian areas.
10. The permittee shall allow the District Engineer and his authorized representative(s) to make periodic inspections at any time deemed necessary to assure that the activity being performed under this authorization is in accordance with the terms and conditions prescribed herein.
11. The impact of activities authorized by LOP using this procedure on cultural resources listed, or eligible for listing, in the National Register of Historic Places (NRHP), shall be taken into account by the U.S. Army Corps of Engineers (Corps) prior to the initiation of work. If previously unknown cultural resources are encountered during work authorized by this permit, the San Francisco District shall be notified and the sites avoided until the Corps can assess their eligibility for listing in the NRHP. Sites determined to be eligible for listing in the NRHP shall require consultation between the Corps and the State Historic Preservation Office and/or the Advisory Council on Historic Places. Cultural resources include prehistoric and historic archeological sites, and areas or structures of cultural interest which occur in the permit area.
12. All temporary fills within waters of the U.S. shall be removed in their entirety.
13. All extraction activities in the vicinity of federal projects shall be coordinated for required setback distances with the Corps office prior to application for a permit.
14. Heavy equipment working in wetlands shall be placed on mats, or other measures shall be taken to minimize disturbances to soil.
15. No authorization will be granted under this LOP procedure for any activity that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act, or that is likely to destroy or adversely modify the critical habitat of such species. Permittees shall notify the District Engineer if any listed species, proposed species or critical habitat might be affected by, or is in the vicinity of, the project, and shall not begin work until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.
16. The project shall not significantly disrupt the movement of those species of aquatic life indigenous to the water body or those species that normally migrate through the project area.

APPENDIX B
Humboldt County's
CALIFORNIA 2a(ii) Wild and Scenic River
River Descriptions/Agency Responsibility

River	Segments	Mileage	Agency	Designation
Eel	NF-Soldier Basin to Forest Boundary(FB)	15	USFS(SRNF)	Recreational
	NF-FB to confluence w/ Mainstem (includes Round Valley Indian Reservation lands)	16	NPS	Recreational
	MF-Headwaters to FB(Confluence with Black Butte Ck and MF Eel.)	18	USFS(MNF)	Recreational
	Main Stem-(legal description) to southern BLM boundary	13 +/-	NPS	Recreational
	Main Stem-South BLM boundary to confluence w/ Outlet Creek	13	BLM	Recreational
	Main Stem-Confluence of Outlet Creek to Mouth	?	NPS	Recreational
	SF-Headwaters (Section 4 Ck) to Confluence w/ Rattlesnake Ck adjacent to Hwy 101 (Leggett)	17	BLM	Recreational
	SF-Confluence w/ Rattlesnake Ck to Main Stem	50	NPS	Recreational
Van Duzen	Powerline above Little Larabee Ck to confluence with Eel.	?	NPS	Recreational
	Dinsmore bridge to powerline crossing above Little Larabee Ck.	?	NPS	Scenic
Trinity	Mainstem- Lewiston Lake to FB/ confluence with NF Trinity R.	17	BLM	Recreation
	Mainstem – East FB to W. FB (Shasta Trinity NF)	33.2	USFWS (STNF)	Recreation
	Mainstem –East FB to W FB (6 Rivers)	15	USFS (SRNF)	Recreation
	Mainstem – FB, Crossing Yurok land to Hoopa Indian land	1	NPS	Scenic
	Mainstem- Hoopa Indian land to confluence w/ Klamath R.	2	NPS	Scenic
	New River –Headwaters to confluence w/ mainstem Trinity R.	21	USFS (STNF)	Recreation
	SF – Hum. Co. line to Todd Ranch in Sec 18, T5N	?	USFS (SRNF)	Wild
	SF- Todd Ranch to confluence w/ mainstem Trinity R.	?	USFS (SRNF)	Scenic
	NF Trinity- Headwaters to Mainstem	15	USFS (STNF)	Recreation

SRNF = Six Rivers Nat. Forest STNF = Shasta Trinity ? = uncertain River Mile
NF= North Fork FB= Forest (USFS) Boundary SF= South Fork MF=Middle Fork

APPENDIX C

PHYSICAL MONITORING AND SUBMITTAL PREPARATION GUIDELINES FOR GRAVEL EXTRACTION IN HUMBOLDT COUNTY

Ground surveys and aerial photography provide the primary basis for physical monitoring of extraction areas in Humboldt County. They are also essential for project planning, proposal preparation, field reviews, project modification, and compliance verification. Although technological advancements in recent years have lowered the costs and increased the accuracy of digital terrain modeling (DTM), the more conventional cross section surveys are still in common use by Humboldt County's mining industry. Consequently, the guidelines below focus on conventional cross section surveys. However, use of DTM-based monitoring information is encouraged and should provide much of the same information (e.g., elevations of the water surface, top of silt band, etc.) mentioned below.

Monitoring cross-sections are permanent, monumented cross sections whose purpose is to document yearly and long-term changes in river channel elevation and morphology at extraction sites and adjacent reaches. They also aid in extraction planning, field reviews, and, in some cases, estimation of volumes extracted.

Extraction zone cross-sections are temporary, seasonal cross-sections used for the planning an extraction, for estimation of the actual volume extracted, and for evaluating compliance with approved gravel plans. The extraction zone is the total area that will be extracted and/or graded as a result of gravel extraction activities.

Cross-sections, maps, and associated calculations (such as replenishment and extraction volumes) must be prepared by or under the direction of a State of California Licensed Land Surveyor or an authorized Professional Engineer and certified as to content and accuracy.

The guidelines below were modified from those in the original LOP 96-1. Additionally, NOAA Fisheries shall receive copies of all electronic cross sections.

I. Standards for Monitoring Cross-Sections

A. Number and layout of required cross sections for an extraction project to follow the guidelines below. Please consult with CHERT for assistance or clarification as needed.

1. A hypothetical center line for the 'frequently scoured' river channel, measured equidistant from both banks and delineating the zone of frequent bedload movement (annual scour and deposition) must first be established to determine the high flow channel direction and the along-channel length of the project reach. This zone is typically devoid of large trees and excludes low floodplains and terraces
2. If the radius of curvature is less than ten times larger than the average frequently scoured channel width of the project reach, the reach is considered a bend. If the radius of curvature is more than ten times larger than the average actively scoured channel width of the project reach, the reach is considered straight.
3. Cross-sections shall be oriented perpendicular to the center line.
4. Cross-sections shall be no more than 400 feet apart on bends and 500 feet apart in straight reaches. If the length of the project reach is not evenly divisible by 400 or 500 feet, the number of cross-sections should be rounded to the next larger number. Longer distances between cross sections or abandonment and

replacement of cross sections may be allowed on a case-by-case basis.

5. The first cross-section shall extend across the channel at the upstream limit of the project reach (entire project site); the last cross-section shall extend across the channel at the downstream limit of the project reach.

B. Cross-sections must extend completely across the river channel (so as to include all actively scoured channel width) and to terminate on the 100-year floodplain or equivalent surface.

C. Two bench marks (permanent monuments) shall be established for each bar above the watercourse's active banks and in positions such that they will not be eroded away by all but the most destructive flood events. Bench marks to be tied to a common vertical and horizontal control datum, the 1988 North American Vertical Datum (NAVD88) and to the 1983 North American Datum (NAD), among all extraction sites.

D. Cross-sections to be tied to a common vertical and horizontal control datum among all extraction sites. This is specified as the 1988 North American Vertical Datum (NAVD) and 1983 North American Datum (NAD) elevation for sea level.

E. Cross-section endpoints and benchmarks shall be clearly monumented and labeled in the field and accurately located on current air photos and maps. A common color of flagging, or environmentally benign painting to be used to mark cross-sections at all sites.

F. Cross-section endpoints must be placed far enough away from eroding banks that they will not be removed by relatively frequent flows (e.g., by floods smaller than the 10-year event).

G. Cross-sections must be resurveyed from the same endpoints each year. New cross-sections may be added as necessary (e.g., major shifts in the river's course) and should be oriented approximately normal to the channel center line.

H. Pre-extraction cross-section surveys need only include those portions of each cross-section inundated by the previous winter's highest flow, but plots must include accurate representations of all ground topography between endpoints and clearly label where older (previous survey) data are used. This is included as a cost saving measure for areas where it is clear no scour or deposition has occurred since the previous survey.

I. If the cross-section becomes inundated by late-season high flows after the pre-extraction survey is completed, the cross-section must be resurveyed (at a minimum, the inundated portions, as described above).

J. All monitoring cross-sections should be surveyed each spring, regardless of whether extraction took place in them in the previous year. If flow conditions make below-water portions of the cross section unsafe to survey, those sections may be completed later in the year as conditions allow, but prior to fall rains.

K. Post-extraction surveys need only be resurveyed through those portions of the cross-section altered by extraction, temporary stockpiles, road construction, or other types of ground disturbance.

L. Stake or spray paint the following points on the ground in each cross-section at time of survey (to

facilitate the CHERT relating the cross-section at time of survey to the ground during field review):

1. Water's edge on both sides of river; or if this is not practicable (e.g., steep, unstable slope), stake at 10 feet offset (measured along ground surface) from water's edge. Position of stake to be included in survey.
2. The top of the silt band, if visible.
3. The 35% flow exceedence level, if available.
4. On both sides of river, one hub (2 inch by 2 inch wooden stake), painted brightly and labeled, shall be driven in nearly flush with the ground at the survey point closest to midway between water's edge and cross-section endpoint. Exception: this is not required if it would put the stake in a steep, unstable bank.
5. Stakes should be labeled with cross-section and station number (horizontal distance from left end point).

M. Maximum distance between any two elevational points along a cross-section shall be 50 feet, including wetted portion. Exception: if ground outside wetted channel is essentially level for a distance of 500 feet, distance between points can be increased to 100 feet. All obvious breaks in slope must still be included.

N. Net cross-sectional area change pre-extraction to post-extraction (gravel removal), or post-extraction to next year's pre-extraction (replenishment), as appropriate, should be calculated for each cross-section and presented in tabular form. Measurements and calculations should be included.

O. The survey data for each cross section should be provided to the CHERT on a 3.5" diskette, 'zip' disk, or CD as a digital file in ascii text format (alphanumeric, tab-delimited). A paper printout of the data should also be supplied. The data should be grouped by cross-section and organized from L bank to R bank, using the format below:

<i>XS 20+78, Smith Bar, Duke Ready Mix Site, Big River</i>			
Point No.	Horizontal Distance	Elevation	Description
1	0	154.9	Ground at LB rebar
2	45.3	149.3	BIS (break in slope)
3	73.3	147.1	Top scarp
4	79.1	142.6	Base scarp
etc.	etc.	etc.	etc.

P. Monitoring cross-sections to be used for planning/designing extractions should be surveyed at least several weeks prior to the desired beginning date of operations to allow sufficient time for the review and approval process. Cross-sections following mining (including any parts of cross sections not surveyed pre-mining due to unsafe flow conditions and parts of cross sections affected by mining operations) are to be surveyed and submitted with the other post-extraction materials as soon as practicable after mining ends, and definitely before winter high flows occur.

II. Standards for Extraction Zone Cross-Sections

A. Number and layout of extraction cross sections for an extraction project to follow the guidelines below:

1. A hypothetical center line for the proposed extraction, located equidistant from both edges of the extraction zone and extending down its long axis must be established.
 2. A minimum of 5 equally-spaced extraction cross-sections to be surveyed in each extraction zone or area.
 3. Cross-sections shall be oriented perpendicular to the extraction center line.
- B. Extraction cross-sections to be surveyed prior to extraction, and used to design extraction, calculate extraction volume, and review extraction proposals.
- C. Extraction cross-sections to be resurveyed after extraction is complete. Extraction cross-sections need not be resurveyed in subsequent years.
- D. Extraction cross-sections require temporary (seasonal) monuments at each end, such as stakes or rebar, which can be relocated after extraction is complete.
- E. Extraction cross-sections should be clearly staked and marked on the ground so that the CHERT can readily locate them in the field.

III. Preparation of Cross-Sections Plots

All Cross-Sections shall be prepared according to the following criteria:

- A. Plots should denote the position and elevation (to the nearest 0.1 foot) of the following points:
1. End points and hubs.
 2. The top of the silt band adjacent to the low flow channel, if visible.
 3. The 35% flow exceedence level, if available.
 4. The water's edge at time of survey.
 5. Edge of vegetation stands.
 6. Any other features useful for field orientation and review.
- B. Cross-sections at all sites shall be plotted at the same simple, usable vertical and horizontal scales. All cross-sections must have a vertical exaggeration of 10. Scales to use for cross-sections are as follows:

<u>Cross Section Width</u>	<u>Paper Size</u>	<u>Horizontal Scale</u>
≤ 500 ft.	8 ½" x 11"	1 in. = 100 ft.
500 ft. - 1200 ft.	8 ½" x 14"	1 in. = 100 ft.
≥ 1200 ft. - 1600 ft.	8 ½" x 14" or 11" x 17"	1 in. = 100 ft.
≥ 1600 ft.	8 ½" x 14" or 11" x 17"	1 in. = 100 ft.

- C. Cross-sections shall be cut and stacked so that whole cross-sections can be placed on one page. Cross-sections that are cut and stacked must be consistently presented each year.
- D. Cross-sections shall be surveyed and drafted consistently so that the right bank (RB) of the river as you face downstream is at the right side of the drafted cross-section. Zero (0) distance in cross-sections shall

be at the left (LB) endpoint as you face downstream.

- E. Cross sections shall be plotted on gridded paper, where the grid logically corresponds to the scale at which the cross-section is plotted. We suggest a grid of 10 squares to the inch. Grid shall be visible in the reproduced paper copies provided to the CHERT.
- F. Cross sections shall have clearly labeled vertical and horizontal axes. Each cross section should have its own horizontal axis to facilitate measurement of distances (rather than a single set of axis labels at bottom of page). Each cross-section should have its origin on a heavy grid line.
- G. Any vertical or horizontal datum or endpoint changes should be clearly noted along with the length and direction of change(s) on the cross section plots.
- H. All monitoring cross sections shall also include:
 - 1. Where discernible, elevation and position of high-water marks for previous winter's flow (floodmarks); these should be consistently determined among cross-sections.
 - 2. Water-surface elevation and location (both banks) at time of survey
 - 3. Cross-sections to include the river bottom (especially location of the thalweg) as well as the water surface. Water surface elevation alone is insufficient; the bed must be included.
 - 4. Elevation and location of top of silt band ("bathtub ring") if visible at time of survey
 - 5. Location of major vegetation breaks, e.g., edge of willows or riparian forest
 - 6. Water discharge at time of survey (from nearest USGS gage) to be shown in cross-section legend.
 - 7. Floodmarks, top of silt band, water's edge, monuments, CHERT reference stakes should all be clearly labeled in the cross-section and their elevations indicated.
 - 8. Spring cross-section data all monitoring cross-sections shall include the current year's spring cross-section overlain on the previous year's spring and fall (if any) cross-sections. The area of actual extraction should be lightly shaded or hatched. Water-surface should be shown with a dotted line, and its date clearly indicated.
 - 9. For pre-extraction survey, total volume change since the previous year's post-extraction survey (i.e., replenishment) should be calculated using double end-area or computer generated digital terrain models. All measurements and calculations should be included and verified by a California Licensed Land Surveyor or appropriately authorized engineer.
 - 10. For post extraction cross-section data, all monitoring cross-sections which overlap the extraction area shall include the current year's post extraction cross section data overlain on the current year's pre-extraction cross-section data and the previous year's post extraction cross-section data and the original prescription recommended by the CHERT. The post-extraction cross-section should be shown with a solid line, the pre-extraction with a dashed line. The actual area of extraction should be lightly shaded or hatched.
 - 11. Electronic files with cross section data shall be submitted by December 31, each year. These files should be in ASCII or a compatible format with X-Y coordinates corresponding to the hard-copy plots, where X is the horizontal distance from the left (facing downstream) monument or endpoint and Y is the elevation referenced to NAVD88. Header information shall be included with each cross section file that indicates the date of survey, cross section number, mining site, and river. Other relevant information (e.g., lost/re-established endpoints, etc.) shall also be included. Files shall be submitted in CD-ROM or other common media. A 'Read Me' text file may also be included if explanation of other issues is necessary.

I. All Extraction Cross-Sections shall also include:

1. Spring extraction cross-sections shall include the pre-mining cross-section data overlain onto the proposed mining configuration. The proposed area of extraction should be lightly shaded or hatched. Should changes be required for project approval, extraction cross sections shall be re-submitted with the approved mining configuration replacing the proposed configuration prior to commencement of mining.

2. Post extraction cross-sections shall include the post-mining cross-section data overlain on the previous year's post extraction (if any) and the current year's pre extraction cross-section data and the approved mining configuration. The actual area of extraction should be lightly shaded or hatched.

3. All plotted configurations should be clearly distinguishable from one another and clearly labeled.

4. The net cross-sectional area change pre-extraction to post-extraction should be calculated for each cross-section. Total volume extracted should be computed, using double end area or computer generated digital terrain models. All measurements and calculations should be included in tabular form and verified by a California Licensed Land Surveyor or appropriately authorized engineer.

IV. Preparation of Maps

A. All pre-extraction site maps are to be prepared on a color air photo of good quality from current year (see exception below). Site maps should show the entire project area, the proposed extraction area, and other pertinent features at a scale of approximately 1:6000 (1 in = 500 ft). This may require reduction or enlargement of original air photos.

B. Pre-extraction photos should be taken when the river is low enough to see the channel. Earlier photos may be used for preliminary planning so long as they reasonably reflect current conditions, but a current set is required for final project approval.

C. All monitoring and extraction cross-sections should be accurately located and labeled on the site map. In particular, the end points of each cross-section must be located as close as possible to their true positions.

D. The horizontal limits of both the approved and actual extraction areas (if they are different) should be accurately shown on a site map included with the post-extraction submittal, along with cross section as described above. Only current year air photos shall be used for post-extraction submittals.

APPENDIX D

BIOLOGICAL MONITORING REQUIREMENTS FOR GRAVEL EXTRACTION IN HUMBOLDT COUNTY, CA

The purpose of the biological monitoring is to identify adverse impacts that can be avoided, minimized and mitigated by mapping important resources such as fish habitat and riparian vegetation. This monitoring plan is not a river management plan but part of the Corps regulatory requirements to ensure protection of the aquatic ecosystem.

Each applicant will study his/her project reach which shall include the gravel extraction reach (or zone) and distances upstream and downstream of the gravel extraction area equal to half the gravel extraction reach. Modifications to the project reach may be made by the Corps for projects in close proximity to other gravel operators, and for projects that span large distances with relatively small excavations.

Each Class A applicant shall submit the following biological monitoring data to be obtained by a qualified biologist. Each applicant is responsible for ensuring that all data submitted are accurate and obtained by qualified individuals. Failure to employ qualified individuals may require resurveying, and/or suspension of the permit.

A. Vegetation

1. Vegetation changes in age structure and areal coverage are currently documented in the aerial photos twice each year.

B. Anadromous Fish

The Corps, the applicants, CHERT and NOAA Fisheries will develop an extraction reach-specific monitoring plan by August 30, 2004, which will replace the anadromous fish monitoring requirements of the modified LOP 96-1 procedure. The monitoring plan will be reviewed by NOAA Fisheries and approved by the Corps prior to implementation. In the interim, the following biological monitoring will be required.

Wetland Pits: Snorkel surveys of wetland pits, by a qualified fisheries biologist, shall be required to monitor and assess juvenile stranding after high flows that inundate the wetland pit have receded. Wetland pits shall each be surveyed for stranded juvenile salmonids as soon as winter flows have receded, if the winter flow inundated the wetland pit. During the summer season the wetland pit will be re-surveyed if stranded juvenile salmonids were previously found in order to assess survival. In addition, a monitoring plan that assesses salmonid stranding, which includes a fish rescue plan, shall be submitted as part of the pre-extraction mining plan when wetland pits are used as the extraction methodology.

Trenching: A monitoring plan that assesses salmonid stranding, which includes a fish rescue plan, shall be submitted as part of the pre-extraction mining plan when trenching is used as the extraction methodology.

C. Birds

Any gravel operation that begins in the spring (March, April or May) may adversely affect nesting and brooding activities of avian species. Monitoring of avian species to determine use of riparian areas and gravel bars according to sex, age, and breeding status may be required of any operator that commences gravel extraction before June 1. Monitoring shall include point counts and mist netting and shall be approved by CDFG and USFWS personnel.

Monitoring and impact avoidance requirements for the western snowy plover are provided in Appendix E.

APPENDIX E
USFWS DRAFT TERMS & CONDITIONS TO LOP 2003-1 6/4/03
For Western Snowy Plovers

The attached conditions were prepared for the LOP 2003-1 but were never finalized. They are included here as an example of the likely conditions for LOP 2004-1. At such time as consultation is complete and the LOP 2004-1 is final, this appendix will include the terms and conditions from the USFWS's Biological Opinion for this LOP.

1. Operators shall make an attempt to initiate all extraction related activities after September 15 to avoid direct effects to plovers.
2. All pre-extraction activities within plover habitat that occur between March 1 and August 22 require a Service-approved surveyor to minimize potential harm to plovers. To be effective, plover surveyors must have the authority to direct the activities of workers to avoid nests and other plover life stages, and require that activity be rescheduled until technical assistance from the Service is received regarding avoidance or minimization measures. Vehicle use within plover habitat should be restricted to those occasions where the activity cannot be completed otherwise.
3. Initiate extraction activities within plover habitat after July 22. If a plover nest is present within 1000 feet of a planned extraction site, extraction activities would not commence until the nest had hatched or the fate of the nest has otherwise been determined and the Service has provided its approval. Service approval (verbal or written) will be provided when the Service has concurred with the nest fate determination and the Service has completed a query to determine if: 1) take occurred, 2) take was attributed to the Federal action, and 3) the take was authorized (i.e. incidental).
4. Between July 22 and September 15, initiate extraction activities within plover habitat after three consecutive days of surveys have determined that no plovers (adults or chicks) or nests are within 1000 feet of the proposed extraction site. The three consecutive days of surveys must be completed by a Service approved surveyor, would not begin before July 20, and would occur only on days of acceptable weather conditions. The surveys must be conducted during a period when plover and nest detections are at their best, i.e. generally mornings, not during period of low light, high winds, or when heat waves distort observations.
5. Between July 21 and September 15, survey areas in the vicinity of the targeted extraction site for plovers and nests to determine the likelihood of chicks, juveniles, and adults moving into areas where they could be affected by operations (i.e. within 1000 feet). "Vicinity" refers to all suitable plover habitat contiguous with the gravel extraction site. Because gravel bars and the riverine system on the Eel River are dynamic, the Service would provide technical assistance regarding annual determinations of what constitutes contiguous habitat.

6. Between July 21 and September 15, operators of extraction sites that have nests or plovers within 1000 feet, or in the vicinity, shall complete the following: a) daily plover surveys by a Service approved surveyor to determine the status of plovers and nests within the extractions site vicinity; b) if plovers are within 1000 feet of the extraction site, operations may not commence until the plovers move to a distance greater than 1000 feet away (hazing is not authorized); c) operators must ensure that extraction activities do not occur when plovers or nests are within 1000 feet of the extraction site; and d) all extraction onsite personnel shall receive training regarding the identification of adult and immature plovers, their behaviors, and the ramifications to the conditions of the LOP and the Terms and Conditions in this biological opinion. Training shall be provided by a Service approved biologist.
7. Between July 21 and September 15, prohibit night driving (0.5 hour after sunset to 0.5 hour before sunrise) for extraction-related activities within suitable plover habitat. Authorized daytime driving shall be minimized to those trips essential to complete authorized work. Car-pooling is encouraged. Parking, staging, and maintenance of vehicles and equipment shall occur at least 1000 feet away from suitable habitat. Vehicle speeds in suitable plover habitat should not exceed 10 miles per hour (mph), unless on an established access/haul road where speeds shall not exceed 30 mph. The first three vehicle trips on haul/haul roads in suitable habitat each day shall not exceed 10 mph.

APPENDIX F

CLASS A GRAVEL EXTRACTION SITES THAT ARE EXPLICITLY INCLUDED IN THE REQUEST FOR CONSULTATION WITH NOAA FISHERIES

The following list includes the active Class A gravel extraction sites that are eligible for authorization under this procedure. Any additional gravel extraction proposals would require consultation with NOAA Fisheries before inclusion in this appendix and/or authorization.

Mad River	Lower Eel	Van Duzen River	Eel R. PALCO R	South Fork Eel	Trinity River
					And isolated sites
<i>Guynup</i>	<i>Eureka S&G</i>	<i>Humboldt Co</i>	<i>PALCO</i>	<i>Mercer Fraser</i>	<i>Mercer Fraser</i>
Guynup Bar	Hauck Bar	PL Bar	Vroman	Cooks Valley Mend	McKnight Bar
<i>Granite</i>	Singley Bar		Bowlby	Cooks Valley Humb	Willow Ck Bars
Emmerson Bar			South Fork Bar		
Blue Lake Bar	<i>Charlie Hansen</i>	<i>Tom Bess</i>	Larabee	<i>Humboldt County</i>	<i>Rowland</i>
	Hansen Bar	East Site	Elinor	County Bar	Rowland
<i>Eureka S & G</i>		West Site	Three Mile	Tooby Bar	
Christie Bar	<i>Mercer Fraser</i>		Dinner Creek		<i>Humboldt Co</i>
Johnson Bar	Sandy Prairie, Pl A	<i>Noble</i>	Truckshop	<i>Randall</i>	Cook Bar
Johnson-Spini RB	Sandy Prairie, Pl B	Noble	Maynard	County Bar	Branstetter Bar
Johnson-Spini LB			Scotia	Home/Tooby Bar	Charles Bar
O'Neill Bar	<i>Mallard Pond</i>	<i>Leland Rock</i>		Tooby Park Bar	
	Drake Bar	East Site	<i>Humboldt Co.</i>		
<i>Mercer Fraser</i>		West Site	South Fork Bar	<i>Wallan & Johnson</i>	
Essex bar	<i>Humboldt County</i>			Wallan & Johnson	
	Worswick Bar				
<i>Miller/Almquist</i>				<i>Satterlee</i>	
Miller/Almquist				Fort Seward	

Italicized names refer to the responsible party for gravel extraction at the gravel bars listed. Names in the standard font are the names of the gravel bar. Gravel bars that are proposed for authorization under an Individual Permit are marked with a strikethrough (for example) and are not eligible for authorization under LOP 2004-1, without initiating consultation with NOAA Fisheries.

If your gravel bar is not listed, or if it is erroneously marked either with standard font or strikethrough, notify the Corps immediately.

APPENDIX G

Conditions, Limitations and Criteria Specific to Gravel Mining on the Mad River

There are several details that indicate the Mad River's bed elevation is in a degraded condition, i.e. at a lower elevation than during an earlier, "normal" period. Both the Humboldt Bay Municipal Water District and the regional office of California Department of Transportation have determined that the river sediments around their structures including the Essex water intake structure, and the Highway 101 Bridges over the Mad River, are degraded. Also, please see the *Historical Analysis of Geomorphic Channel Changes, Lower Mad River, Humboldt County, California*, by Jeffery W. Tollhurst, August 1995 and the *Assessment of Changes in Channel Morphology and Bed Elevation in Mad River, California, 1971-2000*, by Kevin Knuuti and Dinah McComas, September 2003. At the same time, the Mad River is important for federally listed coho, chinook and steelhead life history stages. For these reasons, the Mad River contains extra conditions to further limit adverse impacts.

1. Gravel extraction on the Mad River will be limited to less than 150,000 cubic yards per year.
2. Temporary bridges shall be removed before September 15, each year. The CHERT recommendation shall include a justification for the bridge location.
3. Upstream of the Highway 299 Bridge, alternative extraction techniques shall be preferred over traditional skimming (bar scalping). These alternative techniques may include, but are not limited to horseshoe extractions, wetland pits, trenches and dry-trenches, and "narrow skims," as described in Appendix L.

APPENDIX H

Conditions, Limitations and Criteria Specific to Gravel Mining on the Lower Eel River

The lower Eel River, from the confluence with the Van Duzen River downstream, is important nesting and rearing habitat for western snowy plovers as well as migration and rearing habitat for coho, Chinook and steelhead. For these reasons, the Lower Eel River contains extra conditions to further limit adverse impacts.

1. Impacts to snowy plovers shall be avoided to the maximum extent possible. In this draft, Appendix E further describes the operating requirements that will likely be required for gravel activities, including pre-extraction planning and surveys. In the final version, Appendix E will include the Terms and Conditions of the Biological Opinion from USFWS.
2. Alternative extraction techniques shall be preferred over traditional skimming (bar

wetland pits, trenches and dry-trenches, as described in the Appendix L.

3. In addition to the alternative extraction techniques listed above, narrow skims that are adjacent to the low flow channel but provide for protection of the adjacent cross-over riffle by limiting extraction to the areas away from the entire riffle will also be considered for the lower Eel River on a case-by-case basis. These narrow skims may have a minimum vertical offset of 2 feet above the water surface elevation of the low flow channel. Narrow skim widths will be determined on a site specific basis, but narrow skims must: (1) not increase channel braiding; (2) not lower the elevation at which flows enter secondary channels; (3) avoid the higher portions of the annually inundated bar surface; and (4) must promote channel confinement. The CHERT recommendation shall include a summary of the reasoning, along with sufficient biological, hydrological, and sediment transport rationale to support the recommended width.

**APPENDIX I:
Conditions, Limitations and Criteria Specific to
Gravel Mining on South Fork Eel River**

The South Fork Eel River provides habitat for Chinook, coho and steelhead, but especially is spawning habitat for Chinook. Alternative extraction techniques shall be preferred over traditional skimming. These alternative techniques may include, but are not limited to horseshoe extractions, wetland pits, trenches and dry-trenches, as described in the Appendix L.

**APPENDIX J:
Conditions, Limitations and Criteria Specific to
Gravel Mining on the Van Duzen River**

The mouth of the Van Duzen River channel is broad and generally shallow. In conjunction with the aggraded conditions, the river may flow subsurface in the late summer and early autumn. The situation has caused stranding and mortality of Chinook salmon in recent years. Extraction proposals in the lower two miles of the Van Duzen River shall be limited to alternative extraction designs, such as trenching, alcoves, horseshoe pits, very narrow skims, etc. In particular, trenching is recommended in some locations in the lower Van Duzen.

“Very Narrow Skims” on the lower two miles of the Van Duzen River (from the confluence to River Mile 2) shall be limited to 90 feet total width, as measured across the top of the extraction. This width provides for confinement of typical early season (November/December) peak flows of 1,000 cfs and maintains a depth of one foot within the narrow skim area, which shall also be above the water surface elevation of the 35% exceedence flow, so that impairment of adult passage is reduced.

Extraction proposals shall include a justification describing how the proposal will prevent increases in the width:depth ratio and not increase the likelihood of salmon stranding.

Appendix K:
Conditions, Limitations and Criteria Specific to
Gravel Mining on the Trinity River

The minimum skim floor elevation on the Trinity River shall be a minimum of two feet above the adjacent summer low-flow water surface elevation.

Appendix L
Definitions associated with gravel extraction

Traditional skimming

Skimming or scalping of gravel from exposed gravel bars involves the use of excavating machinery to remove the uppermost layer of gravel. Historically, skimming may have been performed as far down as the water surface. However, to be eligible for authorization under the LOP 2004-1, skimming shall be performed above the 35% exceedence flow water surface elevation of the low flow channel, and on exposed (dry) bars, within the active channel that is typically inundated annually. After skimming, the bar must be graded in order to be left smooth, free of depressions and with a slope downstream and/or to the low-flow channel. Traditional skims are typically laid out as curvilinear benches along the outside of gravel bars, and are typically no wider than about half the exposed bar surface width. Traditional skims include the minimum head of bar buffer (described below).

Head of Bar Buffer

The upstream end of the bar (head of bar) shall not be mined or otherwise altered by the proposed action. The minimum head of the bar shall be defined as that portion of the bar that extends from at least the upper third of the bar to the upstream end of the bar that is exposed at summer low flow. Therefore, the upstream one-third portion of the bar as exposed at summer low flow is provided as the minimum head of bar buffer. The intent of the head of bar buffer is to provide protection of the natural stream flow steering effect provided by an undisturbed bar.

Variances to the minimum head of bar buffer may be considered on a case-by-case basis (e.g., for narrow skims) if the proposed alternative provides equal or greater protection. The specific nature of the proposed variance must be described, along with sufficient biological, hydrological, and sediment transport rationale to support the recommended alternative. Modifications in the default head-of-bar buffer dimension shall, at a minimum, provide for protection of the adjacent cross-over riffle by limiting extraction to the area downstream of the entire riffle.

Narrow skims

Narrow skims taper gradually at each end and are not adjacent to riffle locations.

Van Duzen River

Narrow skims along the lower two miles of the Van Duzen River shall be limited to a maximum width of 90 feet across the top of the extraction. This width is designed to contain average peak flows of 1,000 cfs commonly seen during the early period of adult salmonid migration in

November and December. The minimum skim floor shall be equal to the water surface elevation of the 35% exceedence flow.

Lower Eel River

Narrow skims that are adjacent to the low flow channel, but are not adjacent to entire riffle areas, will also be considered for the lower Eel River. These narrow skims may have a minimum vertical offset of 2 feet above the water surface elevation of the low flow channel. Narrow skim widths will be determined on a site specific basis, but narrow skims must: (1) not increase channel braiding; (2) not lower the elevation at which flows enter secondary channels; (3) avoid the higher portions of the annually inundated bar surface; and (4) must promote channel confinement.

Mad River

Narrow skims on the Mad River shall be limited to a maximum width of one-third the exposed bar width, as measured at the widest point of the bar, and shall have a minimum skim floor at least as high as the water surface elevation of the 35% exceedence flow.

Horseshoe skims

This method extracts gravel from the downstream portion of gravel bars, with large horizontal and vertical offsets from the low flow channel, and an opening to the channel at the most downstream end of the excavation. These areas are excavated to a depth above the water table, with steeper (3:1) slopes on the sides, and gentler (6:1) slopes at the head of the excavation. The large horizontal and vertical offsets are intended to remove the excavation area away from frequent flow inundation and are intended to minimize effects to listed salmonid species by disconnecting the mined surface from frequent flow inundation. Due to less frequent flow inundation, horseshoe shaped skims may take larger flow events to replenish than traditional skim designs depending on the unaltered bar height between the excavation and the stream. The floor of the horseshoe skim must always remain, at a minimum, above the water surface elevation of the 35% exceedence flow, and the minimum head of bar buffer shall be used.

Alcove

Alcove extractions are located on the downstream end of gravel bars, where naturally occurring alcoves form and may provide velocity refuge for juvenile salmonids during high flows, and potential thermal refuge for juvenile salmonids during the summer season. Alcove extractions are irregularly shaped to avoid disturbance of riparian vegetation, and are open to the low flow channel on the downstream end to avoid stranding salmonids. Alcoves are extracted to a depth either above or below the water table, and are small in area and volume extracted, relative to other extraction methods.

Exposed Bar

The bar area subject to annual flow inundation and active sediment transport and replenishment cycles, lacking transitional vegetation colonization, grasses and shrubs. Area may contain sparse patches of widely scattered individual woody plants.

Wetland pits

Wetland pits are irregularly shaped excavations (to avoid excavating riparian vegetation) located on the 2-to-5 year floodplain surface. An excavator digs out the sediment below the water table and leaves the sides of the pit sloped. Wetland pits allow for gravel extraction away from frequently inundated gravel bar surfaces, and most salmonid habitat features. Wetland pits will only fill with sediment during high flow events, on the order of every 2-to-5 years, and typically over a multi-year period. Wetland pits must have vegetation, either existing or planted, around their perimeter, and must contain some type of cover elements, such as woody debris.

Trenching

Wet trenching

The wet trenching method of extraction is used to excavate sediment directly from portions of the channel, after the stream flow has been diverted to a secondary channel location. The wet trenching method of extraction would only be used when there is the additional objective of improving instream salmonid habitat by the limited use of sediment removal, and where the diversion of the low flow channel into a secondary channel that provides salmonid habitat is possible.

Dry trenching

The dry trenching method of extraction may be both shallow and stay above the water table, or deep and extend below the water table. The dry trenching method involves gravel bar excavation on the exposed (dry) bar surface. A gravel berm may be constructed with materials on site to isolate the trench from the channel, or the trench may be far enough from the low flow channel to not require a berm to separate it. Material is then excavated from inside the trench to a depth that is limited by the reach of the equipment, and by the annual, site specific recommendations provided by CHERT. After excavation, and when the sediment in the trench has settled, the berm is breached on the downstream end, and the trench is connected to the river to prevent fish stranding. Alternatively, the berm may be constructed to be naturally breached during normal Fall flows.